

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1388/06

Sou.Suman Vitthal Borade Applicant

V/s.

The state of Maharashtra Respondent

Shri.Vikas Shivarkar & Vip Bidkar Adv.for the applicant

Shri.Y.S. Shinde APP for the State

CORAM : V.M. KANADE, J.

DATE : 20/04/06

P.C:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. This is one more application for bail in which it is alleged that the applicant who is mother-in-law of the deceased poured kerosene on her and set her on fire. Dying declaration of the deceased was recorded by SEM and doctor who were present in the hospital had given endorsement in the said dying declaration that patient was conscious and was in a position to take her statement and was in a sound state of mind and

thereafter dying declaration was recorded. Apart from this said dying declaration her statement was also recorded. I have perused the said dying declaration and F.I.R. which has also been treated as dying declaration after the deceased died. In both the dying declaration she has given graphic account of events which had taken place on the said date. She has also stated that her husband mercilessly assaulted her at 1.30 a.m. in the night and has suspected her fertility and the present applicant then stated that she should be finished off and thereafter, son of the applicant brought a can of kerosene and poured on her body and set her on fire. When she tried to escape she was pushed back in the room and was not allowed to go out. When her cries were heard by her neighbours they came to rescue her and took her to the hospital. Learned Counsel for the applicant has made number of submissions disputing veracity of statement which was recorded. He submits that F.I.R. Dated 23/2/2005 is fabricated document and is filed after due deliberations and discussions were made. He further stated that there is also no endorsement on the said F.I.R. cum DD that the statement of deceased was

recorded in the presence of doctor. He submits that time at which the deceased started dictating her dying declaration as well as the time at which the deceased concluded her dying declaration is not recorded. He further invited my attention on the statement of doctor and submitted that the deceased is fit to give a valid statement on 23/2/2005 at 2.10 p.m. to 2.15 p.m., though F.I.R. was recorded at 8.15 p.m. He further submitted that it is not mentioned in the F.I.R. in whose presence the left leg impression of the deceased was taken in the F.I.R. He further submitted that there are material contradictions in the F.I.R. and statement of the witnesses particularly mother and father of deceased.

3. It is not possible to accept the submissions made by the learned Counsel for the applicant. Learned APP appearing on behalf of the State invited my attention on the DD recorded by SEM as indicated hereinabove wherein details of the incident have been recorded. In any event there is no discrepancy in the two statements of deceased. He also submitted that charge has been framed and the trial is likely to commence within a short period. It is quite disturbing

that cases of these types are on increase and this Court had issued notice to the Advocate General and after he appeared before the Court, certain steps are being taken by the Government for the purpose of addressing themselves to this issue of young brides being eliminated after marriage either for the demand of dowry or other flimsy grounds. Taking into consideration facts and circumstances, in my view, this is not a fit case for grant of bail. The application for bail is rejected. Trial is expedited.

4. It is clarified that the Trial Court shall not be influenced by any observations made by this court while passing this application and it should not be construed as an expression of merits of the case. These observations are made since specific arguments were advanced by the learned Counsel and therefore, while answering these submissions which are made, the Court had no other option but to give and pass a reasoned order.

5. Application is accordingly disposed of.

V.M. KANADE, J.

